

REMARKS

Summary

Claims 1, 2, 4, 6-14, 16, 18-22, 24 and 26-28 stand in this application. Claims 3, 5, 15, 17, 23 and 25 have been canceled. Claims 1, 10 and 21 have been amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

35 U.S.C. § 103

At page 3, paragraph 4 of the Office Action claims 1, 2, 4-14, 16-22 and 24-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Publication 2003/0228863 to Vander Veen et al. (hereinafter “Vander Veen”) in view of United States Patent Number 6,819,304 to Branson (hereinafter “Branson”). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

The Office Action has failed to meet its burden of establishing a *prima facie* case of obviousness. According to MPEP § 2143, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success

must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

As recited above, to form a *prima facie* case of obviousness under 35 U.S.C § 103(a) the cited references, when combined, must teach or suggest every element of the claim. See MPEP § 2143.03, for example. Applicant respectfully submits that the Office Action has not established a *prima facie* case of obviousness because the cited references, taken alone or in combination, fail to teach or suggest every element recited in claims 1, 2, 4, 6-14, 16, 18-22, 24 and 26-28. Therefore claims 1, 2, 4, 6-14, 16, 18-22, 24 and 26-28 define over Vander Veen and Branson whether taken alone or in combination. For example, claim 1 recites the following language, in relevant part:

a display screen that is configurable between a first viewable physical size configuration and a second, larger, viewable physical size configuration for displaying on-screen icons representing said common plurality of functions wherein said on-screen icons comprise respective text corresponding to said common plurality of functions, the first viewable physical size configuration displays a first set of on-screen icons corresponding to basic common functions and the second viewable physical size configuration displays a second, larger, set of on-screen icons corresponding to extended common functions that includes said first set of on-screen icons.

As correctly noted in the Office Action, the above-recited language is not disclosed by Vander Veen. According to the Office Action, the missing language is disclosed by Branson at column 8, line 60 – column 9, line 20. Applicant respectfully disagrees.

Applicant respectfully submits that Branson fails to disclose the missing language of the claimed subject matter. For example, Branson at the given cite, in relevant part, states:

In addition to adjusting size and/or resolution of displayed data (e.g., displayed image 113 and/or some other data) in response to a change in size of the display area D of the adjustable display device 100, other characteristics displayed data

may be adjusted. For example, it may be desirable to change the amount of data displayed in the display area D of the display device 100 when the size of the display area D changed. With reference to FIGS. 4A and 4B, rather than reducing the size of the displayed image 113 (e.g., a hammer) when the segments 101, 105 are removed as shown in FIG. 4B, the display device 100 simply may not display the entire image 113 (e.g., the portion of the head of the hammer located in segment 101 in FIG. 4A need not be displayed in the display area D of FIG. 4B).

As indicated above, Branson arguably discloses changing the amount of data displayed when the size of a display area is changed. However, Branson merely discloses displaying more or less data based upon the size of a display screen. For example, the hammer shown in figures 4A-C may be partially displayed if the size of the display is reduced. By way of contrast, the claimed subject matter includes a first and second viewable physical size configurations, “the first viewable physical size configuration displays a first set of on-screen icons corresponding to basic common functions and the second viewable physical size configuration displays a second, larger, set of on-screen icons corresponding to extended common functions that includes said first set of on-screen icons.” The claimed subject matter displays a first set of commonly used basic icons when the display is in a first viewable physical size configuration, assuring that the most commonly used functions are available to the user. Branson fails to disclose intelligently displaying particular data or icons based upon the size of the display screen. Therefore, Branson fails to disclose, teach or suggest the missing language. Consequently, Vander Veen and Branson, whether taken alone or in combination, fail to disclose, teach or suggest every element recited in claim 1.

For at least these reasons, Applicant submits that claim 1 is patentable over the cited references, whether taken alone or in combination. In addition, claims 10 and 21 recite features similar to those recited in claim 1. Therefore, Applicant respectfully

submits that claims 10 and 21 are not obvious and are patentable over the cited references for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claims 1, 10 and 21. Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See MPEP § 2143.03*, for example. Accordingly, Applicant respectfully requests withdrawal of the obviousness rejection with respect to claims 2, 4, 6-9, 11-14, 16, 18-20, 22, 24 and 26-28 that depend from claims 1, 10 and 21, and therefore contain additional features that further distinguish these claims from the cited references.

Conclusion

For at least the above reasons, Applicant submits that claims 1, 2, 4, 6-14, 16, 18-22, 24 and 26-28 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to

Appl. No. 10/616,108
Response Dated March 28, 2008
Reply to Office Action of December 28, 2007

Docket No.: 1070P3823
Examiner: Tan, Alvin H.
TC/A.U. 2173

be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1, 2, 4, 6-14, 16, 18-22, 24 and 26-28 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned at 724-933-9338 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to the credit card in the previously filed credit card authorization form.

Respectfully submitted,

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John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

Dated: March 28, 2008

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